

PROCEEDINGS OF THE CITY PLANNING COMMISSION

January 20, 2017

Regular Meeting

A regular meeting of the City Planning Commission was held this day at 9 A.M. in the J. Martin Griesel Room of Two Centennial Plaza with the following members present: Chair Daniel Driehaus, Mr. John Schneider, Mr. Byron Stallworth, Assistant City Manager John Juech, Dr. Rainer vom Hofe, and Councilmember Amy Murray. Mr. Koetters was absent.

Also in attendance were Mr. Marion Haynes, legal counsel, and Department of City Planning staff: Mr. Charles Graves, Mr. James Weaver, Ms. Lauren Bihl, Ms. Hannah Urbanski, and Ms. Bonnie Holman.

Mr. Driehaus called the meeting to order and asked everyone to join in the Pledge of Allegiance.

Mr. Driehaus stated that the election of the City Planning Commission Chair and Vice Chair would be held since it was the first meeting of 2017.

Mr. Stallworth stated that Mr. Driehaus did an excellent job and nominated him as Chair of the City Planning Commission.

The Commission approved Mr. Driehaus as Chair of the City Planning Commission for 2017.

Mr. Stallworth made the motion, which Ms. Murray seconded.

Aye: Mr. Juech, Mr. vom Hofe, Ms. Murray, Mr. Stallworth, Mr. Schneider, and Mr. Driehaus.

Mr. Driehaus nominated Mr. Stallworth as Vice Chair of the City Planning Commission.

The Commission approved Mr. Stallworth as Vice Chair of the City Planning Commission for 2017.

Mr. Driehaus made the motion, which Ms. Murray seconded.

Aye: Mr. Juech, Mr. vom Hofe, Ms. Murray, Mr. Stallworth, Mr. Schneider, and Mr. Driehaus.

Mr. Driehaus stated that there were speaker cards for Item 8 and asked for a motion to move it to the Discussion Agenda.

The Commission approved moving Item 8 to the Discussion Agenda.

Mr. vom Hofe made the motion, which Mr. Juech seconded.

Aye: Mr. Juech, Mr. vom Hofe, Ms. Murray, Mr. Stallworth, Mr. Schneider, and Mr. Driehaus.

Consent Agenda - Legislative

Item 1 was a report and recommendation on a lease of a portion of Ibsen Avenue between Marburg Avenue and Ridge Avenue to the Southwest Ohio Regional Transit Authority (SORTA) for the Oakley Transit Hub in Oakley. Department of City Planning staff recommended approval.

Item 3 was a report and recommendation for the vacation of Whatley Street and Boston Street within the MetroWest Commerce Park in Lower Price Hill. Department of City Planning staff recommended approval.

Item 4 was a report and recommendation on the sale of City-owned property located at 112 West 15th Street in Over-the-Rhine to Condominium Holdings, LLC. Department of City Planning staff recommended approval.

Item 5 was a report and recommendation on the sale of the southern portion of Race Street in The Banks Development to Hamilton County as well as the dedication of right-of-way after the acquisition of four abutting property slivers in the Central Business District. Department of City Planning staff recommended approval.

Item 6 was a report and recommendation on the sale of City-owned property at 1630 Pleasant Street to Over-the-Rhine Community Housing in Over-the-Rhine. Department of City Planning staff recommended approval.

Item 7 was a report and recommendation on the sale of City-owned property located at 939 E. McMillan Street to The Model Group to construct the Scholar House in Walnut Hills. Department of City Planning staff recommended approval.

The Commission adopted staff's recommendations for the Legislative Consent Agenda.

Mr. Schneider made the motion, which Ms. Murray seconded.

Aye: Mr. Juech, Mr. vom Hofe, Ms. Murray, Mr. Stallworth, Mr. Schneider, and Mr. Driehaus.

Discussion Agenda – Quasi-Judicial

Mr. Weaver presented **Item 8** which was a report and recommendation on a proposed new construction and change in use for a food market at 2801 Price Avenue within Interim Development Control Overlay District No. 80, Incline District Investment Area in East Price Hill. Department of City Planning staff recommended that the City Planning Commission take the following action:

1. **ADOPT** the Department of City Planning staff findings that the permit application generally conforms to the application review guidelines for Interim Development Control Overlay District No. 80, Incline District Investment Area, and meets the standards set forth in Cincinnati Zoning Code Sections 1431-17 and 1445-13, as discussed on pages one to nine (1-9) of this report; and,
2. **APPROVE** the proposed new construction and change of use for a food market at 2801 Price Avenue within Interim Development Control Overlay District No. 80, Incline District Investment Area in East Price Hill.

Mr. Driehaus stated that there were letters regarding Item 8 that were presented to the City Planning Commission at the meeting and requested that in the future, staff send pertinent letters via email as soon as possible to members, so that they had time to review them prior to meetings.

Mr. Haynes swore in all people who were signed up to speak at the meeting.

Ms. Philomena Ashdown, the attorney for the applicant, stated that there were two crucial points: the square footage and the cost of the two-story requirement. A true two-story building would be cost prohibitive in her opinion. Additionally, it would be impossible to meet the parking requirements for a residential or commercial use.

Mr. Kevin Bleichner, architect for the project, said that durable materials would be used to construct the building and would complement the neighborhood. The proposed form of the building would be two stories and would have a roof encompassing the entire building and windows. If a true second story was built, it would require parking. Additionally, building a second floor would require joists and stairways and would reduce the usable space on the first floor.

Mr. Driehaus asked when the new draft Land Development Code would be completed. Mr. Graves responded that they were working on the third draft and planned to have that completed in 2017.

Ms. Ashdown said that the 2,500 square feet requirement for the project did not make sense. Mr. Weaver stated that initially he thought the 2,500 square feet requirement was sufficient. However, upon further study and analysis he believed that the proposed 3,010 square feet project was acceptable. He said that he reached out to United Dairy Farmers (UDF) about the typical size of their stores. He said that there were 14 UDF convenience stores within the City of Cincinnati according to Hamilton County Auditor data. He said he used the building footprint layer from the City's GIS system to calculate that the current 14 UDF stores average of 3,897 square feet. A representative from UDF stated that the typical UDF prototype store of their newer stores had been 4,400 square feet, but had now been expanded to 5,678 square feet in order to offer a wider variety of products and services. He also stated that approximately 600 square feet of their stores goes to the ice cream parlor area and another 300 square feet was devoted to selling UDF brand ice cream. Mr. Weaver said if you subtract 900 square feet from the current average of 3,897 square feet, the average UDF convenience store is the essentially same size as the proposed convenience store at 2801 Price Avenue.

Mr. Driehaus said that the testimony from East Price Hill residents, regarding the benefits of a larger store, was very compelling at the December 2, 2016 City Planning Commission meeting.

Ms. Ashdown stated that adding a second story would require parking. Mr. Driehaus said that possibly parking requirements could be waived.

Mr. Haynes stated that the City Planning Commission had the authority to waive parking without a variance. He stated that the Interim Development Control Overlay (IDC) District was a bridge between current and proposed zoning. Mr. Driehaus commented that he would not want it to become a precedent.

Mr. Schneider asked the number of parking spaces that would be required if the building had a second story. Mr. Matt Shad, Department of Building and Inspections Zoning Administrator, stated that an office use would require approximately three spaces and retail or commercial use would require eight or nine spaces in a building of this size. Mr. Schneider asked if an elevator would be required. Mr. Shad responded that a retail or commercial use would require an elevator. Mr. Schneider asked if sprinklers and extra exits would be required. Mr. Shad said that he would need additional information to make that determination. Mr. Bleichner stated that the cost would be significant and that he did not have exact figures.

Mr. Bleichner stated that if there was a second floor, the owner would then become a landlord, which would entail additional expenses. There would also be additional expenses for an elevator and stairwells.

Mr. Driehaus said the second floor could be used for storage for the first floor business. Ms. Ashdown stated that there would still be a reduction in useable space for the stairwells, elevator, and joist supports.

Mr. Anil Shah, applicant and owner of Red's Deli, stated that he currently had a store with 1,700 square feet and could not expand further in that space. The new store would enable him to expand and benefit the community. He would have hot prepared food and stock fresh fruits and vegetables. Mr. Schneider asked what he would do with the old building and Mr. Shah responded that he would rent it out for a different use. Mr. Shah said he worked at the store seven days a week.

Mr. Tom Croft, East Price Hill resident, stated that he supported the City Planning Commission decision from the December 2, 2016 meeting. He said the square feet was not the only issue and that the hollow second story was a flaw. The space would not be useable in the future. Mr. vom Hofe asked why Mr. Croft was bothered by the additional square feet. Mr. Croft responded that the Pedestrian Mixed (PX) zoning in the draft Land Development Code was brilliant. Ms. Ashdown asked if he was concerned with the parking and Mr. Croft responded that he was concerned.

At 10:18 A.M. Mr. Stallworth left the meeting.

Mr. Ken Smith, of Price Hill Will, stated that he supported the City Planning Commission decision from the December 2, 2016 meeting. He said he felt the PX zoning designation would be ideal for the property. He said that 2,500 square feet was appropriate for the area. He said storage on the second floor could offset the space requested for the first floor.

Mr. Tom Gamel, of the East Price Hill Improvement Association (EPHIA), stated that he agreed with Mr. Croft and Mr. Smith.

Ms. Theresa Thomas, East Price Hill business owner, stated that she owned four properties adjacent to Red's Deli. She said she welcomed development in Price Hill and was happy that a small independent business owner wanted to expand in the neighborhood. She said that the community did not want to be exclusive and welcomed Red's Deli expansion. In response to Ms. Ashdown's question, Ms. Thomas stated that she shopped at Red's Deli and liked to purchase sandwiches and drinks. She said that if they were able to expand and offer hot food it would greatly benefit nearby residents and businesses. She said that she approved of the project and especially liked the building material choices.

Mr. George Theobald, of 652 Hawthorne Avenue, said that the EPHIA did not represent him and that it was hypocritical that they did not support Red's Deli. He said there were single story

buildings nearby and some of them were dives. The proposed project was the only new building in the neighborhood. He said the 3,010 square foot building would be acceptable to him.

Ms. Ashdown stated that the proposed convenience store meets all requirements of the current CN-P zoning district. The building elevations show a brick veneer and the building form appears consistent with several other commercial buildings located along Price Avenue, including Bloc Coffee Company, Somm Wine Bar, and Veracruz Mexican Grill. In the eastern portion of Price Avenue where the subject property is located, most of the buildings were at least two stories tall, so although the proposed building would not be mixed use, it would complement the general building form of the area.

Mr. Driehaus proposed that the City Planning Commission members retain the decision from December 2, 2016 and add that parking requirements be waived. Mr. Juech stated that he was not present at the previous meeting and Mr. Driehaus read the decision. Mr. vom Hofe said that he was comfortable with the 3,010 square foot proposal. Mr. Driehaus agreed that he would amend his proposal to 3,010 square feet.

Ms. Murray asked that they hear additional testimony. Mr. Haynes said that in order to do that the rules must be suspended.

The Commission agreed to suspend the rules in order to hear additional testimony.

Mr. Schneider made the motion, which Ms. Murray seconded.

Aye: Mr. Juech, Mr. vom Hofe, Ms. Murray, Mr. Schneider, and Mr. Driehaus.

There was a break from 10:48 A.M. to 10:58 A.M.

Mr. Schneider asked how many square feet would be reduced by stairwells and an elevator on the first floor. Mr. Blechner responded approximately 410 square feet.

Mr. Driehaus asked where the 2,500 square foot requirement originated. Mr. Weaver responded that initially, the PX zoning district was carried over to the draft Land Development Code (LDC) with the same rules and regulations as the CN-P zoning district as the City's lowest intensity, most pedestrian-oriented commercial zone. During the public review process for the second draft, there was concern from several neighborhoods that a "food market" could be anything from a big-box grocery store to a convenience store. There was also concern from several neighborhoods that a "food market" could currently be up to 15,000 square feet in the CN-P zoning district, which many residents felt would be out of character for a pedestrian-oriented zoning district where most commercial stalls were only 2,000 to 3,000 square feet.

In the LDC, “convenience stores” were given their own definition and placed on the Use Table, breaking it out as “convenience stores with fuel sales” and “convenience stores without fuel sales”. Under the latest draft of the LDC, “convenience stores without fuel sales” in PX would be permitted with limitations, that the use must be attached to a multi-tenant building and could not be in a standalone building, and the floor area could not exceed 10% of the gross floor area of the entire building or 2,500 square feet, whichever is greater. The 2,500 square feet requirement had never been tested and originated from a consultant.

Ms. Murray asked Mr. Gamel what he thought of the 3,010 square feet proposal. He responded that they developed a Price Hill Plan and wanted the PX zone requirements for their neighborhood. He said in regards to the second story, future use of the building should be considered.

Mr. Schneider said that in fairness to the owner, since the City Planning Commission members seemed set on requiring the true second story, they should agree to the 3,010 square feet request. Ms. Murray agreed.

Mr. Juech suggested that the retail square feet on the first floor should be capped at 2,500 square feet and the remaining 510 square feet could be used for preparation work and storage.

The Commission modified the Department of City Planning staff findings on pages 4-8 of the staff report dated January 20, 2017, that the permit meets the application review guidelines for Interim Development Control Overlay District Number 80 and the standards set forth in Cincinnati Zoning Code Section 1431-17, Standards for Review, for Interim Development Control Overlay District No. 80, Incline District Investment Area in East Price Hill, provided that the specified conditions are satisfied; and

- a. The building footprint contains a maximum of 3,010 square feet with a maximum of 2,500 square feet allocated for the retail/sales area;**
- b. The building have two usable stories, with residential, office or any uses incidental to the first floor business on the second story;**
- c. No onsite parking will be required for the project if the above criteria are met.**

Mr. Driehaus made the motion, which Mr. Juech seconded.

Aye: Mr. Juech, Mr. vom Hofe, Ms. Murray, Mr. Schneider, and Mr. Driehaus.

Other Business

Mr. DrieHaus stated that there had been no action taken on a previous decision regarding 77 West McMillan Street and asked for a report from the Department of Buildings and Inspections to be presented at the next City Planning Commission meeting.

Director's Report

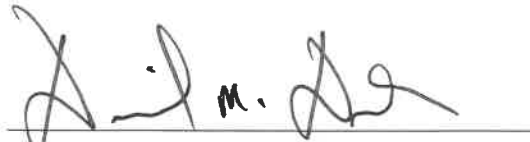
Mr. Graves introduced the two new Department of City Planning interns, Lauren Bihl and Hannah Urbanski. He also asked the University of Cincinnati students in the audience to introduce themselves.

The meeting adjourned at 11:35 A.M.



Charles C. Graves, III, Director
Department of City Planning

Date: 2/3/17



Daniel DrieHaus, Chair
City Planning Commission

Date: 2/3/17